

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NEW YORK**

JOSEPH MARCIANO and BACK TO HEALTH
INCORPORATED,

Plaintiffs,

v.

JACK CROWLEY and ATLANTIC MEDICAL
SPECIALTIES, INC.

Defendants.

No. 08-CV-00305-JTC

**NOTICE OF MOTION OF DEFENDANTS, JACK CROWLEY AND
ATLANTIC MEDICAL SPECIALTIES, INC., TO DISMISS CLAIMS**

Defendants, Jack Crowley and Atlantic Medical Specialties, Inc. ("Defendants"), by and through their attorneys, Phillips Lytle LLP, William P. Keefer, of counsel, will move this Court before Honorable John T. Curtin at the United States Courthouse, 68 Court Street, Buffalo, New York, at a date and time to be scheduled by the Court for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing the claims of Plaintiffs, Joseph Marciano and Back to Health Incorporated for failure to state claims upon which relief can be granted.

In support of their Motion, Defendants rely upon the attached memorandum of law.

Respectfully submitted,

PHILLIPS LYTLE LLP

By: /s/ William P. Keefer
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Date: April 22, 2008